

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 17, 2002

IN RE:

**APPROVAL OF AMENDMENT TO THE
RESALE AGREEMENT NEGOTIATED BY
BELL SOUTH TELECOMMUNICATIONS,
INC. AND ANNOX, INC. PURSUANT TO
SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 01-01103

ORDER APPROVING AMENDMENT TO RESALE AGREEMENT

The Petition for Approval of Amendment to the Resale Agreement Negotiated Between BellSouth Telecommunications, Inc. and Annox, Inc. Pursuant to the Telecommunications Act of 1996 came before the Tennessee Regulatory Authority (the "Authority") at the February 5, 2002 Authority Conference. The original Resale Agreement was filed on November 27, 2001 and assigned Docket No. 01-01027. The Authority approved the Agreement at the January 23, 2002 Authority Conference. The current Amendment to the Agreement was filed on December 11, 2001 and came before the Authority pursuant to 47 U.S.C. § 252.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The Amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.

3) The Amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.²

5) No person or entity has sought to intervene in this docket.

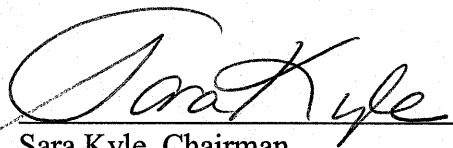
6) The Amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

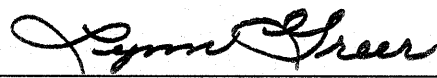
¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

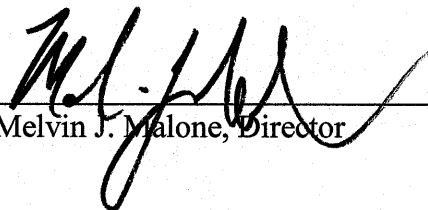
² The Authority has issued a request to BellSouth Telecommunications, Inc. requesting that it provide to the Authority a detailed filing explaining any provisions of the interconnection agreement that differ from previous Authority decisions. BellSouth Telecommunications, Inc. has not responded to this request.

IT IS THEREFORE ORDERED THAT:


The Amendment to the Resale Agreement negotiated between BellSouth Telecommunications, Inc. and Annox, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary